

REMARKS

In the foregoing amendments, claims 6-8, 10 and 11 were amended to correct any informalities associated with improper multiple dependent claiming. Accordingly, applicant respectfully requests that the objection to claims 7-12 under 37 C.F.R. §1.75(c) as being improper multiple dependent claims, which was set forth at the bottom of page 2 of the Official action, be reconsidered and withdrawn. In addition, an examination of claims 7-12 on the merits is respectfully requested.

Claim 1 was amended to define an orally administered agent "free of a bioadhesive layer." Claim 13 was added to the application, which is similar in scope to amended claim 1, and further defines that the agent can be swallowed without getting stuck in a trachea. Support for the limitations in claims 1 and 13 can be found on page 26 of the specification, in the drawings of the present application that show no bioadhesive layer, and elsewhere in applicant's specification disclosure. After the foregoing amendments, claims 1-13 are in the application for consideration by the examiner.

The Official action set forth a single prior art rejection on page 2 thereof. Claims 1-6 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. patent No. 6,242,004 of Rault. Applicant respectfully submits that the inventions defined in claims 1-13 are patently distinguishable from the teachings of Rault within the meaning of 35 U.S.C. §102 or 35 U.S.C. §103(a) for at least the following reasons.

Independent claims 1 and 13 define an orally administered agent *free of a bioadhesive layer*. Applicant respectfully submits that the bioadhesive tablet proposed by Rault, which necessarily has bioadhesive layer, is patently distinguishable from the presently claimed

- 5 -

Application No. 10/690,811
Attorney Docket No.: 24-009-TB

invention that excludes a bioadhesive layer. In particular, applicant respectfully submits that it is impossible and improper to modify the teachings of Rault to exclude the bioadhesive required therein, because such a modification of these teachings would destroy the invention described in Rault. The courts have repeatedly held that references cannot properly be modified or combined, if the effect would destroy the invention on which one of the references is based. *In re Randol and Redford*, 165 USPQ 586 (CCPA 1970); *Ex parte Thompson*, 184 USPQ 558 (PTO Bd. Pat Apps. & Interf. 1974); *Ex parte Hartman*, 186 USPQ 336 ((PTO Bd. Pat Apps. & Interf. 1976). For such reasons, applicant respectfully submits that the inventions defined in claims 1-13 are patently distinguishable from the teachings of Rault within the meaning of 35 U.S.C. §102 or 35 U.S.C. §103. Therefore, applicant respectfully requests that the examiner reconsider and withdraw this rejection.

As mentioned above, the teachings of Rault propose a bioadhesive tablet requiring a bioadhesive layer. On the other hand, the orally administered agent free of a bioadhesive layer, as presently claimed, does not have any such bioadhesiveness. A purpose of the presently claimed invention is an improvement of the ease and safety of taking the agent, namely, swallowing the agent is easy, and the risk of the orally administered agent getting stuck in the trachea of the patient is reduced, as described on page 26 of the present specification disclosure. Present claim 13 further requires that the agent can be swallowed without getting stuck in a trachea. The teachings of Rault do not contemplate or suggest these basic aspects of applicant's invention as required in independent claims 1 and 13. Accordingly, applicant respectfully submits that the inventions defined in these claims, as well as the claims that depend thereon, are patently distinguishable from the teachings of Rault.

- 6 -

Application No. 10/690,811
Attorney Docket No.: 24-009-TB

Claims 8-12 define additional aspects of the invention that are not contemplated or suggested by the teachings of Rault. These claims further define, *inter alia*:

- the drug-containing layer contains an edible polymer as a base,
- the edible polymer is cellulose and/or a cellulose derivative,
- a supporting substrate that supports the orally administered agent, the orally administered agent being provided on the supporting substrate either directly or via an intermediate layer, and
- the supporting substrate has a gripping part and a mouth-inserting part, and the orally administered agent being provided on the mouth-inserting part.

Since the teachings of Rault do not disclose or suggest the aforesaid structures of the presently claimed orally administered agent free of a bioadhesive layer, applicant respectfully submits that the inventions defined in claims 8-12 are patently distinguishable from the teachings of Rault.

For the foregoing reasons, applicant respectfully submits that the presently claimed inventions are patently distinguishable from the teachings of Rault. Therefore, applicant respectfully requests that the examiner reconsider and withdraw any rejections of the claims over these teachings. For at least these reasons, a formal allowance of claims 1-13 is respectfully requested.

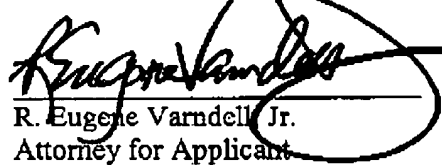
While it is believed that the present response is a complete and proper response to the Official action mailed October 25, 2006, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolve any outstanding issues.

- 7 -

Application No. 10/690,811
Attorney Docket No.: 24-009-TB

In the event this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The fee therefor, as well as any other fees which become due, may be charged to our deposit account No. 50-1147.

Respectfully submitted,
POSZ LAW GROUP, PLC



R. Eugene Varndell Jr.
Attorney for Applicant
Registration No. 29,728

Atty. Docket No. 24-009-TB
12040 South Lakes Drive
Suite 101
Reston, Virginia 20191
(703) 707-9110

\\P:\B\HARE\ARGAD\A\24-009-TB\RESPONSE 1.25.07.DOC

- 8 -

Application No. 10/690,811
Attorney Docket No.: 24-009-TB